

Remarks

This Amendment is in response to the Office Action dated **August 18, 2009**. The Office Action rejected claims 1-6, 9-12, 15, 16, 18-21, 24-26, 31-35, 38-41, 47-55, 59-64, 79, 82, 85, 88, and 91 under 35 USC § 103(a) over Nunez (US 5,800,514) in view of Yachia (US Pub. No. 2004/0093065), Liebig (US 4,517,687), and Koch (US 4,892,539) and rejected claim 30 under 35 USC § 103(a) over Nunez in view of Yachia, Liebig, and Koch in further view of De Paulis (US 6,352,554).

Independent claims 1, 32, 49, and 79 are herein amended. Support for these amendments can be found in the Specification at least in paragraph [0048] of the Published Application and in the application as-filed.

In light of the following comments, Applicant requests reconsideration.

Claims 1-6, 9-12, 15, 16, 18-21, 24-26, 31-35, 38-41, 47-55, 59-64, 79, 82, 85, 88, and 91

As noted above, claims 1, 32, 49, and 79 are herein amended. The amendment to claim 1 is illustrative; claim 1 now recites, in-part, “wherein the first bulbous end includes a textile portion having an increased number of warp yarns at the rate of greater than three warp yarns for every two of said fill yarns. . . .” Support for this amendment can be found in the Specification at least in paragraph [0048] of the Published Application and in the application as-filed.

In contrast, Nunez states, “it has been discovered that such a transition can be effectively accomplished by engaging or disengaging a maximum of three warp yarns per four successive machine picks for a given weave pattern on each edge of the graft.” Column 10, lines 49-53 (emphasis added). Nunez further states, “two machine picks represent one filling pick in a tubular woven structure, . . .” column 2, lines 25-26. Thus, Nunez discloses a maximum of three warp yarns for two filling picks. And, although Nunez also states, “a void greater than the diameter of about three warp yarns results in a graft with a porosity which is unacceptable as a fluid-tight conduit, . . .” column 9, lines 63-66, Nunez does not teach or suggest a graft “having an increased number of warp yarns at the rate of greater than three warp yarns for every two of said fill yarns,” as is claimed.

For at least the foregoing reasons, independent claims 1, 32, 49, and 79 are patentable over Nunez and Applicant requests withdrawal of the rejection.

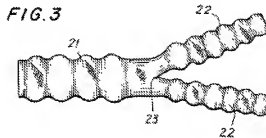
Dependent claims 2-6, 9-12, 15, 16, 18-21, 24-26, 31, 33-35, 38-41, 47, 48, 50-55, 59-64, 82, 85, 88, and 91 depend either directly or indirectly from independent claims 1, 32, 49, and 79, respectively. These claims are therefore patentable for at least the reasons discussed with respect to independent claims 1, 32, 49, and 79. As such, Applicants requests withdrawal of the rejection.

Claims 1 and 32 and Claims Depending Therefrom

The rejection of claims 1 and 32 (and claims depending therefrom) over Nunez in view of Yachia, Liebig, and Koch is *traversed*.

Claim 1 recites, “said bulbous woven section further being radially crimped and said first and second tubular ends being free from crimps. . . .” Claim 32 includes a similar recitation. In rejecting the aforementioned claims over Nunez in view of Yachia, Liebig, and Koch, the Office Action asserts that “it would have been obvious to incorporate the crimps in the bulbous section while keeping the tubular ends free of crimps as taught by Liebig et al. with the graft of Nunez et al. as modified with Yachia et al.” Page 4. This assertion is erroneous.

As shown below in figure 3 of Liebig, Liebig discloses a graft wherein “all three legs are preferably crimped. In the immediate region of the crotch the bifurcated graft may be either crimped or uncrimped.” Column 3, lines 1-3.



Koch discloses a graft having crimps, as shown below in figure 10.

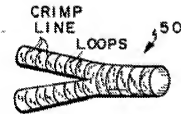


FIG. 10

Nunez discloses that “crimping of the graft 100 along the length of tubular wall 117 to provide structural integrity is contemplated.” Column 11, lines 37-39. Yachia does not disclose, teach or suggest crimps or crimping.

In light of the foregoing disclosures, it is unclear how the claimed subject matter of a bulbous woven section being radially crimped and first and second tubular ends being free from crimps would have been obvious to a person having ordinary skill in the art. In particular, none of the aforementioned references teach or suggest uncrimped ends and a crimped bulbous section. In fact, the only reference that discloses optional crimps is Liebig, which discloses that a bifurcation region may be either crimped or uncrimped. A bifurcation region is neither a first tubular end nor a second tubular end.

Furthermore, the Office Action has not articulated any reasoning why a person having ordinary skill in the art would have made the alleged modification. The Office Action merely asserts that it would have been obvious to incorporate crimps “such that it prevents collapse within the vessel under pressure.” Page 4. This assertion does not explain why one of ordinary skill would be led to provide crimps only on a bulbous section¹ while leaving ends free from crimping.

What is required to establish a *prima facie* case of obviousness under 35 USC § 103(a) is a “clear articulation of the reason(s) why the claimed invention would have been obvious.” MPEP § 2142. As further stated in MPEP § 2142:

[t]he Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 418, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that “rejections on obviousness cannot be sustained with mere conclusory statements;

¹ Applicant’s statement is provided for the sake of argument only and is not an admission that any of the referenced prior art discloses Applicant’s claimed bulbous woven section.

instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006).

MPEP § 2142 also requires that the Office Action provide factual support in making out a case of *prima facie* obviousness.

The Office Action has not provided the requisite factual support for the conclusion that Applicant’s claimed invention (having a bulbous woven section being radially crimped and first and second tubular ends being free from crimps) would be obvious. Thus, the Office Action has failed to establish a *prima facie* case of obviousness and Applicant requests withdrawal of the rejection of claims 1 and 32 and claims depending therefrom.

Claims 1, 32, and 49 and Claims Depending Therefrom

The rejection of claims 1, 32, and 49 (and claims depending therefrom) over Nunez in view of Yachia, Liebig, and Koch are *traversed*.

Claim 49 recites, in-part, “said woven pattern of said bulbous woven section being different from said woven pattern of said first and second tubular ends.” This recitation of claim 49 is illustrative of language in claims 1 and 32.

In this regard, on page 4, the Office Action asserts:

it would have been obvious . . . to use a different weave pattern on the outside of the bulbous section than a weave pattern on the inner section of the tubular ends as taught by Koch . . . such that rapid tissue ingrowth is promoted at the outer surface and adhesions prevented on the interior per Koch, col. 2, lines 3-8.

The assertion is erroneous. In the referenced section of Koch, column 2 lines 3-8, Koch discloses, “[t]he purposes of the outer velour is to provide a base for rapid internal human body tissue growth about the velour circumferential loops thus securing the position of the graft and the smooth inner surface is provided to prevent formations and obstructions on the interior wall of the graft.”

This referenced section of Koch does not disclose, teach, or suggest using different woven patterns along different longitudinal sections of the graft, as is claimed. Instead, the quoted section is discussing the graft’s “velour structure at its outer surface and a plain weave as its inner surface.” Column 1, lines 52-54.

Moreover, none of the other cited references appear to teach or suggest a graft having different woven patterns along a bulbous woven and first and second tubular ends. Consequently, the Office Action has failed to establish a *prima facie* case of obviousness and Applicant requests withdrawal of the rejection of claims 1, 32, 49, and claims depending therefrom.

Claim 79 and Claims Depending Therefrom

The rejection of claim 79 (and claims depending therefrom) over Nunez in view of Yachia, Liebig, and Koch is *traversed*.

Claim 79 recites, in-part, “said woven pattern of said bulbous woven portion comprises a terry weave. . . .” None of the cited references teach or suggest a terry weave. Moreover, the Office Action does not appear to address this element of claim 79. As such, the Office Action has failed to establish a *prima facie* case of obviousness and Applicant requests withdrawal of the rejection of claim 79 and claims depending therefrom.

Claim 30

The Office Action rejected claim 30 over Nunez in view of Yachia, Liebig, and Koch in further view of De Paulis. This rejection is *traversed*.

Claim 30 depends from claim 1. De Paulis does not remedy the deficiencies of Nunez, Yachia, Liebig, and Koch as discussed above with respect to claim 1. As such, Applicant requests withdrawal of the rejection of claim 30.

Conclusion

Based on at least the foregoing remarks, Applicant requests withdrawal of the rejections and allowance of claims 1-6, 9-12, 15, 16, 18-21, 24-26, 30-35, 38-41, 47-55, 59-64, 79, 82, 85, 88, and 91. Favorable consideration and prompt allowance of these claims is earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: October 26, 2006

By: /James M. Urzedowski/
James M. Urzedowski
Registration No.: 48596

6640 Shady Oak Rd., Suite 400
Eden Prairie, MN 55344-7834
Telephone: (952) 563-3000
Facsimile: (952) 563-3001